

**IN THE UNITED STATES DISTRICT
FOR THE DISTRICT OF NEW MEXICO**

ERIC FINCKE,

Plaintiff,

No. 1:12-CV-01065-KG/SMV

v.

PHARMASAFE, LLC,
a New Mexico limited liability company,
PAT ADAMS, BILL BELL, and
DOES 1-50, inclusive,

Defendants.

PROTECTIVE ORDER

THIS MATTER having come before the Court on the Parties' Joint Motion for a Protective Order and the Court having reviewed and considered the Motion finds that the Motion is well taken and is therefore GRANTED. It is ordered that:

1. Any Party prepared to provide additional discovery may designate that the discovery is "Confidential" within the meaning of this Protective Order; provided that the producing party has a good faith belief that the discovery contains confidential information

2. Any Party producing Confidential Documents must mark each and every page with the notation "Confidential" in order to invoke the protections of this Order.

3. Any Party providing Confidential Testimony during a deposition must explicitly state on the record that the testimony is designated Confidential. In addition, the designating Party must direct the Court Reporter and Videographer (if any) to (a) transcribe, record, and reproduce the record of the Confidential testimony separately, (b) keep the testimony and all records of the testimony confidential, to be disclosed only to the Parties to this proceeding, and (c) deliver the

record of the Confidential Testimony to the Parties in sealed envelopes stating in conspicuous type: “CONFIDENTIAL and SUBJECT TO PROTECTIVE ORDER.”

4. Access to, copying of, disclosure of and dissemination of all documents and testimony designated as “Confidential” shall be limited as follows:

- a. To the Parties hereto;
- b. To counsel of record for the Parties and their paralegals and legal assistants (including contractors who consent in writing to be bound by this Order) who must access the Confidential Documents in order to perform their necessary functions in this matter;
- c. To the Parties’ experts who must access the Confidential Documents in order to form their expert opinions in this matter;
- d. To the Court; and
- e. To stenographic and clerical employees of the persons identified above whose functions require them to have access to the Confidential Documents.


5. The information contained in the Confidential documents and testimony may not be used or disclosed in motion practice unless filed under seal or as otherwise approved by this Court; provided that motions containing only general references to requests for Court intervention regarding discovery produced pursuant to this Protective Order may be filed of record without disclosing any specifics regarding the substance of the information designated as Confidential. Before filing any such motion, however, the moving Party shall provide the nonmoving Party with the proposed motion, and meet and confer to attempt to obtain the nonmoving Party’s consent to the filing. Absent obtaining such consent, the moving Party must either file under seal or seek the Court’s approval to file.

6. In the event that a party shall desire to provide access to any Confidential documents or testimony to any entity, person, or category or persons not included in paragraph 4 hereof, it first

shall seek the written consent of the producing party. If the producing party does not consent in writing, the requesting Party shall move the Court for an order that such entity, person or category of persons may be given access to the Confidential Documents. Any such determination shall be entrusted to the sound discretion of the Court.

7. Except as set forth above, under no circumstances shall the Confidential Documents or any information contained therein be disclosed further. Disclosure of Confidential information or documents is not a waiver of (1) the right to object to the use of such information or materials at trial and (2) the right of a party to oppose the submission of punitive damages or any other issue or claim to the jury.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge

APPROVED BY:

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

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By /s/ Electronic Approval on 1/24/14
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